

ORIGINAL

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Dirk M. BEYER et al.

Confirmation No.: 3159

Application No.: 09/626,191

Examiner: B. Van Doren

Filing Date: 07/28/2000

Group Art Unit: 3623

Title: PROFILE-BASED PRODUCT DEMAND FORECASTING

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith in **triplicate** is the Reply Brief with respect to the Examiner's Answer mailed on 07/28/2004. This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new grounds of rejection.)

No fee is required for filing of this Reply Brief.

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Typed Name: Christina L. Paz

Signature: Christina L. Paz

Respectfully submitted,

Dirk M. BEYER et al.

By Alan D. Christenson

Alan D. Christenson

Attorney/Agent for Applicant(s)

Reg. No. 54,036

Date: 09/02/2004

Telephone No.: (713) 238-8000



ORIGINAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants:	Dirk M. BEYER et al.	§	Confirmation No.:	3159
		§		
Serial No.:	09/626,191	§	Group Art Unit:	3623
		§		
Filed:	07/28/2000	§	Examiner:	B. Van Doren
		§		
For:	Profile-Based Product	§	Docket No.:	10001529-1
	Demand Forecasting	§		

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: September 2, 2004

Sir:

Appellants hereby submit this Reply Brief in response to the Examiner's Answer dated July 28, 2004.

In the Examiner's Answer, the Examiner states Monte Carlo simulations or techniques involve "generating some random observations from the function under consideration and then using the average of the random observations to estimate a mean" (see Examiner's Answer, page 18, first paragraph). The Examiner's description of Monte Carlo simulation (or equivalent) is inaccurate because Monte Carlo simulation (or equivalent) does not require "using the average of the random observations to estimate a mean" as suggested by the Examiner. None of the references cited by the Examiner teaches or suggests Monte Carlo simulation (or equivalent) "[uses] the average of the random observations to estimate a mean." On the contrary, the Technology Strategy, Inc. (TSI) references, at least, suggest that averaging is detrimental to TSI's Monte Carlo simulation (or equivalent) which determines the combination of factors, such as total inventory, time of year, store location, sizes, colors, prices, and markdowns, that provide the largest profit margin. The TSI references, therefore, teach using Monte Carlo simulation (or equivalent) to determine a largest profit

margin and not an average profit margin as suggested by the Examiner. Further description of Monte Carlo simulation (or equivalent) as described by the TSI references and supported by additional references is provided in Appellants' Appeal Brief.

The Examiner also states that "the claimed invention is a demand forecasting tool directed towards predicting a life-cycle demand of a product" and that "the life-cycle demand and not the selling cycle is what is pertinent to the limitations of the claims" (see Examiner's Answer, page 18, third paragraph). The Examiner's description of the claimed invention is inaccurate because the Examiner does not appear to consider the claimed invention as a whole (see MPEP 2141.02). The claim language includes various phrases (e.g., "demand profile," "life-cycle demand," "life-cycle demand forecast" and "life-cycle") that may be considered relevant to a "selling cycle." At any rate, Appellants used the phrase "selling cycle" in the Appeal Brief to contrast the seasonal cycles mentioned in the cited references with the claimed invention (which requires normalizing and averaging) because the prior art must be considered in its entirety, including disclosures that teach away from the claims (MPEP 2141.02).

As further described in the Appeal Brief, the obviousness rejection of Appellants' claimed invention is improper, at least, under MPEP 2141.02 ("Prior Art Must Be Considered In Its Entirety, Including Disclosures That Teach Away From The Claims") and MPEP 2143.01 ("The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose" and "The Proposed Modification Cannot Change The Principle Of Operation Of A Reference").

Appl. No. 09/626,191
Reply Brief dated September 2, 2004
Reply to Examiner's Answer of July 28, 2004

If any fees or time extensions are inadvertently omitted or if any fees have been overpaid, please appropriately charge or credit those fees to Hewlett-Packard Company Deposit Account Number 08-2025 and enter any time extension(s) necessary to prevent this case from being abandoned.

Respectfully submitted,



Alan D. Christenson
PTO Reg. No. 54,036
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
AGENT FOR APPELLANTS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400